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# मध्यप्रदेश राजपत्र

## ( असाधारण )

### प्राधिकार से प्रकाशित

क्रमांक 506]

भोपाल, गुरुवार, दिनांक 23 दिसम्बर 2021—पौष 2, शक 1943

#### विधि और विधायी कार्य विभाग

भोपाल, दिनांक 23 दिसम्बर 2021

क्र. 16896-314-इक्कीस-अ-(प्रा.).—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश लोक एवं निजी संपत्ति को नुकसान का निवारण एवं नुकसानी की वसूली विधेयक, 2021 (क्रमांक 34 सन् 2021) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,  
राजेश यादव, अतिरिक्त सचिव.

## MADHYA PRADESH BILL

No. 34 OF 2021

THE MADHYA PRADESH LOK EVAM NIJI SAMPATTI KO NUKSAAN KA NIVARAN EVAM  
NUKSAANI KI VASULI VIDHEYAK, 2021.

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## CHAPTER—II

## FILING OF CLAIM PETITION

**Filing of claim petition.**

3. (1) Where the damage has been caused to a public property the District Magistrate or the officer in charge of the public property shall file claim petition in such manner as may be prescribed, before the Claims Tribunal for award of compensation within 30 days from the date on which the Claims Tribunal is constituted.

(2) Where the damage has been caused to a private property the person who owned or was in possession or was in control of said damaged property may file claim petition in such manner as may be prescribed, for award of compensation before the Claims Tribunal within 30 days from the date on which the Claim Tribunal is constituted.

## CHAPTER—III

## CONSTITUTION, DUTIES AND POWERS OF CLAIMS TRIBUNAL

**Constitution of Claims Tribunal.**

4. (1) The State Government shall, by notification in the Gazette, constitute one or more Claims Tribunal for such period and such area as may be specified in the notification for the purpose of adjudicating claims for compensation in respect of damages to property and to perform functions assigned to it under this Act.

(2) The Claims Tribunal shall consist of one or more members as the State Government may think appropriate to appoint and where it consists of two or more members, one of them shall be appointed as the Chairperson thereof.

(3) A person shall not be qualified for appointment to Claims Tribunal unless he has been—

(a) a retired District Judge who had served as a District Judge for 5 years or more; or

(b) an officer who has held a post not below the rank of Secretary of the State Government or an equivalent officer.

(4) Where two or more claims Tribunals are constituted for any area, the State Government may, by general or special order, determine the distribution of business among them.

**Duties of Claims Tribunal.**

5. (1) It, shall be the duty of the Claims Tribunal to determine the damages caused to property and award suitable compensation for the same.

(2) The Claims Tribunal may, if it thinks fit, appoint a claims Commissioner in such manner as may be prescribed to assist it in holding the enquiry.

(3) The claims Tribunal shall follow such procedure as may be prescribed.

**Procedure to be adopted.**

6. (1) The Claims Tribunal shall observe the principles of natural justice and the provisions of this Act and rules made thereunder. The Claims Tribunal shall have power to regulate its proceedings including the fixing of places and times of its sitting.

(2) The Claims Tribunal shall decide every claim application as far as possible within three months from the date of submission of such application.

(3) The proceedings of Claims Tribunal under this Act shall as far as possible be continued on a day-to-day basis till its conclusion.

7. The claims Tribunal shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (No. 5 of 1908) for the purpose of summoning, taking evidence on oath, ensuring the attendance of witnesses, compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed; and the Claims Tribunal shall be deemed to be a Civil Court for all the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

**Power of Civil Court.**

#### CHAPTER—IV

#### PROCEDURE OF CLAIM PETITION

8. Every claim petition for compensation shall be filed within 30 days of the constitution of Claims Tribunal unless for reasons of extention be stated in writing and the Claims Tribunal grants permission.

**Time limit for filing of claim petition and fees.**

9. The person filing the claim petition may include as respondents, the persons who in his knowledge had exhorted, instigated or committed damaging act under this Act.

**Claim petition consist of.**

10. The Claims Tribunal may allow any party to appear through a legal practitioner during hearing of the case.

**Appearance before Claims Tribunal.**

11. (1) The Claims Tribunal, in passing order, shall record the finding on the issues framed and the reasons for such finding and make an award, specifying the amount of compensation to be paid and such compensation shall be payable, jointly or severally, by the persons who had exhorted, instigated or committed the damaging act in the assembly mentioned in clause (c) of Section 2:

**Order by Claims Tribunal.**

Provided that the State Government may prescribe the rules for determining the amount of compensation:

Provided further that the claims Tribunal may, for reasons to be recorded, make an award up to double the compensation liable to be paid.

(2) Where compensation is awarded to two or more persons under sub-section (1), the Claims Tribunal shall also specify the amount payable to each of them.

(3) The claims Tribunal may, while disposing of the claim for compensation, make such orders regarding costs and expenses incurred in the proceeding as it considers appropriate.

12. Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct, that in addition to the amount of the compensation, simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.

**Interest on the amount of compensation.**

13. (1) The principles of absolute liability shall apply once the nexus with the event that precipitated the damage is established.

**Principles relating to assess the amount of damage to property and its liability.**

(2) The liability will be borne by the persons who have exhorted, instigated or committed the damaging act giving rise to the liability to be shared, as finally determined by the Claims Tribunal.

14. An appeal against an award passed by the Claims Tribunal shall lie before the High Court within 90 days of such award.

**Appeal.**

15. Where any amount due from any persons under an award is not deposited within 15 days of such award, the Claims Tribunal shall issue a certificate for the amount to the Collector who shall recover the same as an arrear of the land revenue.

**Recovery of money as an arrear of land revenue.**

<b>Bar on jurisdiction of Civil Court.</b>	16. Where any Claims Tribunal has been constituted for any area, no Civil Court shall have jurisdiction to entertain any question relating to any claim for compensation which may be adjudicated upon by the Claims Tribunal for that area and no injunction in respect of any action taken or to be taken by or before the Claims Tribunal in respect of the claim for compensation shall be granted by the Civil Court.
<b>No bar by criminal proceedings.</b>	17. Proceedings of claim petition shall not be barred by the criminal proceedings, if any, related to the damaging act.
<b>Protection of action taken in good faith.</b>	18. No suit prosecution or other legal proceeding shall lie against any person authorized for anything which is in good faith done or intended to be done in pursuance of this Act and rules made thereunder.

## CHAPTER—V

## MISCELLANEOUS

**Power to make rules.** 19. (1) The State Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly.

**Power to remove difficulties.** 20. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by an order published in the official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purposes of removing the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before the State Legislature.

## STATEMENT OF OBJECTS AND REASONS

In a catena of judgements (In Re: Destruction of Public and Private Properties versus State of Andhra Pradesh and others, 2009 5 SCC 212, Koshy Jacob versus Union of India, (2018) 11 SCC 756, and Kodungallur Film Society versus Union of India, (2018) 10 SCC 713), the Hon'ble Supreme Court of India Found provisions of the Prevention of Damage to Public Property Act, 1984 (No. 3 of 1984) inadequate and ineffective. The Apex Court also directed the Governments to amend the law to make it stringent and deterrent.

2. In the year 2007, Hon'ble Supreme Court of India took suo motu cognizance of "various instances where there was large scale destruction of public and private properties in the name of agitations, bandhs, hartals and the like", and set up two Committees headed by former apex court judge Justice K. T. Thomas and senior advocate Shri Fali Nariman to suggest changes to the law. In the year 2009, in the case of In Re: Destruction of public and Private Properties versus State of Andhra Pradesh and others the Supreme Court of India issued guidelines based on the recommendations of the two expert committees.

3. Now, the State of Madhya Pradesh, on the basis of recommendations made and directions given in In Re: Destruction of public and Private Properties versus State of Andhra Pradesh and others, is proposing to enact a law in order to effectively deal with acts of vandalism, stone-pelting, arson, allacts of violence at public places during hartal, bandh, riots (Communal or otherwise), public commotion, protests, to control its persistence and escalation and to prevent and minimize the resultant destruction and damage to public and private property. The Bill seeks to assess the damages to public and private property and to recover these damages from the offender.

4. Proposed enactment seek to deter the prospective violators from vandalizing and destroying public/ privat property during agitations and other forms of protests. More importantly, the proposed enactment will also deter the office bearers of these organizations.

5. Hence this Bill.

Bhopal :  
Dated the 17<sup>th</sup> December, 2021

DR. NAROTTAM MISHRA  
Member-in-Charge.